IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No.132 of 2000

Date of decision: July 16, 2007

State of H.P. **…Appellant.**

Versus

Gopal Singh **…Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : Mr. Ashok Chaudhary, Additional Advocate General.

For the Respondent : Mr. Bimal Gupta, Advocate.

Surjit Singh, Judge(Oral)

Respondent was sent up for trial for offences punishable under Sections 451, 323 and 354 IPC for allegedly committing house trespass by entering the house of the victim, who belongs to a Koli caste, which is a Scheduled Caste, and then assaulting her with intent to outrage her modesty and also causing hurt to her in that process of assault. Respondent belongs to a higher caste, i.e., Rajput caste.

2. Matter was reported to the Police by the victim lady on the very next day of the occurrence, wherein she specifically stated that she belongs to a Scheduled Caste. The fact finds mention in column No.3 of the FIR. Now, when the victim of the offence belongs to a Scheduled Caste, the case is required to be registered under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Supposing it was not known at the time of the registration of the case whether the respondent belongs to a Scheduled

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Whether reporters of the local papers may be allowed to see the judgment?

Caste or some higher caste and, therefore, the registration of the case under the provisions of the Indian Penal Code was justifiable, but during the course of the investigation when it came to light that the respondent belongs to a higher caste, i.e. Rajput caste, the case should have been converted into Section 3 of the aforesaid Act.

3. On completion of the investigation, respondent was challaned under the aforesaid provisions of the Indian Penal Code. On the conclusion of the trial, he was acquitted.

4. Without commenting upon the merits of the case, that is to say whether the acquittal is justified or not, I am of the considered view that in view of the fact that the victim belongs to a Scheduled caste and the respondent to a higher caste, the Police ought to have investigated the matter under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In fact the trial Court did not have the jurisdiction in the matter, as the police report and the papers submitted therewith showed that the victim was a member of a scheduled caste and the respondent belonged to a non-scheduled caste. Consequently, the judgment of the trial Court is set aside, trial being without jurisdiction and it is ordered that the matter shall be re-investigated by the Police, in accordance with the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and on completion of the investigation, report shall be filed in accordance with the provisions of the said Act.

5. Appeal stands disposed of, in terms of the aforesaid order.

July 16, 2007(sd) **(Surjit Singh), J**